

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**JANELLE EGGERS**  
Claimant

**APPEAL NO: 07A-UI-09652-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GATEWAY STATE BANK**  
Employer

**OC: 09-09-07 R: 01  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 4, 2007, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on October 30, 2007. The claimant participated in the hearing. Brig Tubbs, President/CEO; Dave Updegraff, Human Resources Officer; and Fran Luett, Vice-President/Cashier, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time assistant cashier for Gateway State Bank from September 25, 2000 to September 6, 2007. Vice-President/Cashier Fran Luett grabbed the claimant's arm and twisted it leaving a bruise July 8, 2004, and pointed scissors at her and jokingly stated she was going to cut off her fingers if she continued to make errors March 23, 2005. The claimant did not complain to the employer about the situation because she did not want "anyone to get into trouble." On October 23, 2006, Senior Loan Officer Ben Yoder told the employer about the arm twisting issue he had learned of several months earlier because the claimant had recently made an error and he feared the claimant was going to be disciplined about the mistake and would bring up the previous situation with Ms. Luett. After the employer was told about the incident it disciplined Ms. Luett by issuing a written warning, sending her to EAP, placing her on probation for 90 days and requiring her to participate in mediation with the claimant. The employer believed the matter had been resolved to the claimant's satisfaction as she did not make any complaints during her meetings with Ms. Luett or the employer. On September 6, 2007, the claimant went to Ms. Luett's office and said she was leaving early and then returned her keys and said she would not be returning to work after that date.

The claimant has claimed and received unemployment insurance benefits since her separation from this employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While Ms. Luett's behavior was completely inappropriate and unprofessional, it occurred over three years prior to the claimant's resignation and she did not report the incidents to the employer. When the employer learned of the situation from another employee it responded appropriately in disciplining Ms. Luett and having the parties undergo mediation to try to resolve their issues. The claimant was upset about not receiving a raise and the position she felt forced to accept but that position was effectively the same one she had been doing and while she testified she was unhappy about being placed on probation for 30 days on two occasions after accepting the position, the employer credibly testified she was not placed on probation but meetings were scheduled every 30 days so they could discuss any issues or problems the claimant was experiencing. If the claimant had quit immediately following the incidents with Ms. Luett, it is likely she would have been eligible for benefits. Because she waited three years, however, the administrative law judge cannot conclude that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The October 4, 2007, reference 01, decision is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is overpaid benefits in the amount of \$1,436.00.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/pjs